

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ATLAS RESOURCES, INC.,
a New Mexico Corporation,

Plaintiff and Counter-defendant,

v.
LIBERTY MUTUAL INSURANCE CO.,
a Massachusetts Corporation; LIBERTY
MUTUAL FIRE INSURANCE COMPANY,
a Massachusetts Corporation,

CIV 09-1113 WJ/KBM

Defendants and Counter-claimants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
ON PLAINTIFF'S MOTIONS FOR SANCTIONS**

The Chief Magistrate Judge filed her Report and Recommendation on September 8, 2011 (*Doc. 239*) on Plaintiff's Second and Third Motions for Sanctions (*Docs. 170 & 185*). That Report and Recommendation expressly notified the parties of their right to file objections by September 26, 2011 and that failure to do so waived appellate review. No objections were filed.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Report and Recommendation (*Doc. 239*) is ADOPTED;
2. Atlas shall recover all of its reasonable attorney fees and costs in the preparation, filing and presentation of oral arguments as to the Second and Third Motions for Sanctions and briefing, as well as in the preparation of the Motion to File a Supplemental Memorandum and the supplemental memorandum itself, with responsibility for the amount of the recovery to be split evenly by Defendant Liberty and its counsel, the firm of Jackson Walker;

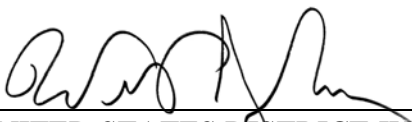
3. Atlas shall also recover from Jackson Walker any other reasonable costs and attorney fees required to obtaining production of all of the Corlett e-mails including those expended in depositions taken to determine whether all of the requested documents had been produced. Atlas shall be entitled to redepose Mr. Corlett, if necessary, at Jackson Walker's expense;

4 . Atlas shall also recover from Liberty any other reasonable attorney fees and cost required to obtain the ARC documents. The fees to be awarded include those expended in depositions taken to determine whether the requested documents had been produced. All associated costs shall also be recoverable. Atlas may depose a **competent** Rule 30(b)(6) witness to discuss the staff legal files, if necessary, at Liberty's expense;

5. Liberty shall also pay to Atlas a fine equal to 30% of the recoverable attorney fees attributed to obtaining the ARC documents and staff legal files. This fine is assessed under Rule 26(g) in accordance with the Chief Magistrate Judge's findings which I adopt; and

6. Counsel for Atlas shall submit its attorney fee applications and cost bills within thirty (30) days of the entry of this Order. Liberty shall have ten days thereafter to file objections to the reasonableness of the requested attorney's fees and costs.

SO ORDERED.


UNITED STATES DISTRICT JUDGE